

ASSEMBLY BILL

No. 2960

Introduced by Assembly Member La Malfa

February 22, 2008

An act to amend Section 3064 of the Family Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

AB 2960, as introduced, La Malfa. Custody orders: evidence of sexual abuse.

Existing law provides that a court shall refrain from making an order granting or modifying a custody order on an ex parte basis, unless there has been a showing of immediate risk that the child will be removed from the State of California, or a showing of immediate harm to the child. "Immediate harm to the child" is defined to include having a parent who has committed acts of domestic violence, as specified.

This bill would include evidence of sexual abuse of the child, where the court determines that the acts of sexual abuse are of recent origin or are a part of a demonstrated and continuing pattern of acts of sexual abuse, within the definition of "immediate harm to the child," a showing of which authorizes a court to make an order granting or modifying a custody order on an ex parte basis.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3064 of the Family Code is amended to
2 read:

1 3064. (a) The court shall refrain from making an order granting
2 or modifying a custody order on an ex parte basis unless there has
3 been a showing of immediate harm to the child or immediate risk
4 that the child will be removed from the State of California.

5 ~~“Immediate~~

6 (b) “Immediate harm to the child” includes ~~having a the~~
7 *following:*

8 (1) *Having a* parent who has committed acts of domestic
9 violence, where the court determines that the acts of domestic
10 violence are of recent origin or are a part of a demonstrated and
11 continuing pattern of acts of domestic violence.

12 (2) *Evidence of sexual abuse of the child, where the court*
13 *determines that the acts of sexual abuse are of recent origin or*
14 *are a part of a demonstrated and continuing pattern of acts of*
15 *sexual abuse.*